

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Patrick Clifton Clark,)	
)	C/A No. 0:07-1651-MBS
Plaintiff,)	
)	
vs.)	
)	
Sumter County c/o William Noonan;)	
Lee County c/o Jimmy Lacoste; Simon)	O R D E R
Major, Director SLRDC; Dr. Bush, Medical)	
Director; Southern Health Partners,)	
c/o Phil Mack or Jackie Richards; Ass't)	
Director McGhaney; and Capt. Raylee,)	
)	
Defendants.)	
_____)	

Plaintiff Patrick Clifton Clark is a prisoner detained at the Sumter Lee Regional Detention Center in Sumter, South Carolina. Plaintiff, proceeding pro se, filed a complaint on June 14, 2007. The complaint was signed by numerous other inmates and detainees, and alleged that their constitutional rights had been violated in various respects. Plaintiff filed an amended complaint on his own behalf on July 3, 2007. On July 25, 2007, an order was entered authorizing service and directing Plaintiff to advise the Office of the Clerk of Court in writing of any address change. Plaintiff was cautioned that his failure to do so could result in dismissal of his case.

This matter is before the court on motion for summary judgment filed by Defendants Bush and Southern Health Partners on October 17, 2007. On October 18, 2007, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedures and the possible consequences if he failed to respond adequately.

Also before the court is Plaintiff's motion for summary judgment filed November 5, 2007. Defendants Sumter County, McGhaney, Raylee, and Major filed a response in opposition to

Plaintiff's motion on November 20, 2007. Defendant Lee County filed a response in opposition to Plaintiff's motion on November 21, 2007.

Also before the court is motion for summary judgment filed by Lee County on November 21, 2007. On November 26, 2007, an order was issued that, among other things, granted Plaintiff until January 21, 2008 to respond to Defendants' motions for summary judgment in accordance with the Roseboro order issued October 18, 2007. On December 4, 2007, the envelope containing Plaintiff's copy of the November 26, 2007 order was returned to the Office of the Clerk of Court, marked "Released, Return to Sender, Refused, Unable to Forward." On December 20, 2007, Defendants Sumter County, McGhaney, Raylee, and Major filed a motion to dismiss for lack of prosecution.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On December 20, 2007, the Magistrate Judge issued a Report and Recommendation in which he recommended that the within action be dismissed pursuant to Fed. R. Civ. P. 41(b) because Plaintiff had failed to keep the Clerk of Court advised of his current address. On January 2, 2007, the envelope containing Plaintiff's copy of the Report and Recommendation was returned to the Clerk's Office marked "Released, Return to Sender, Not Deliverable as Addressed, Unable to Forward."

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C.

§ 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Plaintiff was advised by order filed July 25, 2007 of his responsibility to notify the court *in writing* if his address changed. Plaintiff was informed that his case could be dismissed for failing to comply with the court's order. It appears that Plaintiff no longer wishes to pursue this action. Accordingly, the court adopts the Magistrate Judge's recommendation that the case be dismissed pursuant to Rule 41(b). The court within action hereby is dismissed pursuant to Rule 41(b) *with prejudice*.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

February 1, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.